(03) of 1st

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

CIVIL REVISION NO. 106 OF 2003

APPLICANTS : 1. Prabal Kumar, son of late Shri Ram Kumar Tiwari,

: 2. Sanjay Kumar, son of late Shri Ram Kumar Tiwari.

: 3. Smt. Godawari Tiwari, widow of late Shri Ram Kumar Tiwari.

All cultivators, residents of Village-Kosla, Tehsil Pamgarh, District-Janjgir-Champa, (C.G.)

P.R. No. 5276
Presented by Shri Aman Keshariyani
dated 21.03.03

V E R S U S

RESPONDENTS R:1. The Land Acquisition Officer, Hasdeo Project, District-Janjgir-Champa, (C.G.)

R:2. Executive Engineer, Hasdeo Canal, Water Maintenance Division Janjgir, District-Janjgir-Champa, (C.G.)

MEMO OF REVISION PETITION UNDER SECTION 115 OF C.P.C.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CR-106/03 **सन्** **200**

(25)

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.03.2005: -

Shri V.R.Tiwari, learned counsel for the applicants.
Shri Satish Gupta, learned Dy.G.A. for the State/respondents.

Heard.

The instant civil revision has been preferred by the applicants as they are aggrieved by the impugned order passed by the Collector, Janjgir-Champa and by which the application preferred by the applicants under Section 18 of the Land Acquisition Act (hereinafter referred to as 'Act') has been dismissed on the ground that the application has been preferred belatedly and the same is barred by law of limitation.

Learned counsel for the applicants submits that as per Section 12(2) of the Act, it was mandatory on the part of the Land Acquisition Officer to issue personal notice to the applicants at the time of passing award. However, no such notice was issued on the date of passing award i.e. 12.04.2002. The amount of award was received by the applicants on 17.04.2002 under protest.

Learned counsel for the applicants further submits that from perusal of the impugned order it appears that the award in case was passed on 12.04.2002 and the amount was disbursed to the applicants on 17.04.2002. It is further stated that the application under Section 18 of the Act was made by the applicants on 03.09.2002 and the same was dismissed by the impugned order on the ground that the limitation prescribed for making application under Section 18 of the Act is six weeks

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आदेश पत्रक

मामला क्रमांक C.R.106/03 **सन्** 200

..... **विरुद्ध** .....

(26)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

and the date of passing award is 12.04.2002, the application was held to be time barred and accordingly dismissed.

Learned counsel for the applicants relying upon the judgement of the M.P.High Court in the matter of ***Shreyans Kumar Jain and others Vs. State of M.P. and another*** reported in ***1995 (1) VIBHA 92*** submits that the Collector cannot withhold the reference on ground of limitation or on merits as this jurisdiction vests in District Court to decide all such questions and the Collector has exceeded his jurisdiction by rejecting the application under Section 18 of the Act.

On the other hand, learned counsel for the non-applicants submits that from perusal of the application itself it is evident that the award order passed on 12.04.2002 and the applicants received the amount of compensation on 17.04.2002, therefore, the application under Section 18 of the Act preferred by the applicants on 03.09.2002 has been rightly held to be barred by law of limitation as the same was beyond the period of six weeks prescribed in the Act.

I have heard learned counsel for the parties and gone through the impugned order.

Relying upon the judgement delivered in the matter of Shreyans Kumar Jain and others Vs. State of M.P. and another (Supra) which is based on full Bench judgment of the Punjab and Hariyana High Court in the matter of ***Sher Singh V. Union of India*** reported in ***AIR 1983, P & H, 107,*** I am of the opinion that the impugned order suffers from jurisdictional

(कृपया देखिये)

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आदेश पत्रक

(27)

मामला क्रमांक C.R.106/03 सन् 200—

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	errors and it was incumbent upon the Collector to refer the matter to the concerned District Judge who alone could have adjudicated the question whether the said reference was duly made to the Collector and also regarding its validity. Accordingly, the application is allowed and the Collector is directed to refer the matter to the District Judge for disposal of the same in accordance with Section 18 of the Act. Sd/- DHIRENDRA MISHRA Judge	

(पीछे देखिये)